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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/820,383

04/08/2004

Peter Seitz

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EXAMINER

YENKE, BRIAN P

ART UNIT

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2622

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/820,383	Applicant(s) SEITZ, PETER	
	Examiner BRIAN P. YENKE	Art Unit 2622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Response/Amendment (08/20/08).
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 01/08/08 have been fully considered but they are not persuasive.

Applicant's Arguments

a) Applicant states that none of the applied references discloses the remote selection or generation of an optical stimulus which is transmitted to the local site and then imaged by the camera.

b) Applicant states that claim 1 further includes: repeating image acquisition (step c) and further validating the optimization by acquiring still another image. Applicant states that the situation of KSR vs Teleflex does not seem applicable to the present action, since each of the elements, even independently has been demonstrated, known in the prior art.

Examiner's Response

a) The examiner disagrees. In line with applicant's disclosure which states that such stimulus is preferably selected and transmitted to the camera from the remote location or alternatively may already be at the local site or stored on the camera, where the stimulus may be one single image or series of images (applicant's disclosure, para 0043). It is noted by the examiner, that Bogardus discloses a stimulus associated with the optical target (local) wherein the camera provides such image for calibration to a local or remote computer system (110). The computer system (remote or local) includes calibration unit 114 which includes white balance 116, color balance 118 which are stimuli based upon the image/necessary calibration. Rott also discloses the feature of a remote/local camera calibration system, wherein additional parties (remotely located) may be consulted for validation. Silver discloses transmitting images from a remote server to a local camera for testing/calibration. Thus the combination

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above meets the claimed language regarding the optical stimulus as defined by the specification to include both embodiments of being at either the remote or local location. Also as noted in the rejection 3

b) The examiner disagrees. Initially it is noted that the principles outlining the decision in KSR vs Teleflex indicated that

In their decision the Supreme Court stated "To determine whether there was an apparent reason to combine known elements in a way a patent claims, it will often be necessary to look to interrelated teachings of multiple patents; to the effects of demands known to the design community or present in the marketplace; and to the background knowledge possessed by a person having ordinary skill in the art. **To facilitate review, this analysis should be made explicit. But it need not seek out precise teachings directed to the challenged claim's specific subject matter, for a court can consider the inferences and creative steps a person of ordinary skill in the art would employ.**"

"The obviousness analysis cannot be confined by a formalistic conception of the words teaching, suggestion, and motivation, or by overemphasis on the importance of published articles and the explicitly content of issued patents. The diversity of inventive pursuits and of modern technology counsels against limiting the analysis in this way. In many fields it may be that there is little discussion of obvious techniques or combinations, and it often may be the case that market demand, rather than scientific literature, will drive design trends. Granting patent protection to advances that would occur in the ordinary course without real innovation retards progress and may, in the case of patents combining previously known elements, deprive prior inventions of their value or utility. "

... The applicant is apprised of *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981), wherein it

has been decided that the test for obviousness is not whether the claimed invention must be expressly suggested

in any one or all of the references. Rather, the test is what the combined teachings of the references would

have suggested to those of ordinary skill in the art.

This corroborates and is consistent with the *KSR v. Teleflex* Supreme Court Decision, wherein it is stated that "As our precedents make clear, however, the analysis need not seek out precise teachings directed to the specific subject matter of the challenged claim, for a court can take account of the inferences and creative steps that a person of ordinary skill in the art would employ

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 3-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bogardus, US 6,542,185 in view of Rott et al. and Silver et al., US 6,931,602.

In considering claims 1,3 15-17, 19, 20 23 and 24,

Bogardus discloses a automated optimization system to calibrate a camera where a camera (102) senses an optical target 100 (the claimed optical stimulus) which is then provided to a personal computer (local) or computer (remote), wherein the remote location may be via a network (LAN or WAN), wherein the calibration unit via the computer transmits the required calibration data/updates back to camera 102 (Fig 1, see description). As shown the computer includes a display 104 which evaluates the received image using processor 106, image recognition 112 and calibration 114 in order to update the parameters transmitted to camera 102.

However, Bogardus does not explicitly recite remotely selecting and generating an appropriate optical stimulus to enable the adaptation of an appropriate optical stimulus according to a selected parameter(s).

The examiner incorporates Rott which discloses an adjustably camera calibration system wherein the camera may send the image locally or remotely for analysis/compilation which is used to adjust and calibrate the camera (col 4, line 3-24). Rott also discloses that the user/person conducting the testing may have consultation with a second party or more if required, via modem 60 or though telephone or PCS satellite link 62.

Regarding the limitation of sending an image remotely to a local camera, the examiner evidences such by incorporating Silver et al., which discloses sending images from a remote server to a local camera for calibration/testing.

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Bogardus which discloses a camera calibration system which may be done locally/remotely, by allowing analyzing/corrected such camera based upon adaptive parameters/settings as done by Rott, in addition to providing Bogardus/Rott the ability to receive image data/optical stimulus to test/calibrate devices remotely.

Regarding the newly added limitations "in the event...", "transmitting to said camera", repeating and validating".

As stated above, the combination discloses a system which allows the testing/calibration of a camera (located at one site (i.e. user location)) to another system (i.e. computer, located local or remote from the camera) in order to perform calibration.

Although the combination may not explicitly recite "iterative optimization", although Bogardus does disclose "automated optimization". It is noted that the fundamental principle of each reference and thus combination is to test/calibrate a camera. Thus given that a system (the combination) is known to send/retrieve images/parameters/stimulus in order to analyze/calibrate a camera, it would be recognized that a system which performed this calibration until the system was optimized would be necessary. If the system did not perform this calibration/testing/evaluation in an iterative approach, it would be a "one shot" approach, which would be in direct opposition for the intended purpose of evaluating a system until it's corrected.

This is in line with the recent decision by the Supreme Court in KSR vs Teleflex, wherein the court recognized that if a predictable variation can be implemented by one of ordinary skill in the art and would see the benefit of doing so a 103 likely bars it's patentability.

In the instant case, the "iterative" approach as claimed would be recognized by one of ordinary skill in the art to provide a system which ensures calibration, in view of a system which is "non iterative".

In considering claim 3,

Refer to the rejection of claim 1 above.

In considering claims 4 and 18,

As stated above, Bogardus discloses an optical target 100, although does not explicitly recite the group as claimed, however the sensing of an image from the claimed groups are conventional/notoriously well known in the art, since cameras are able to capture images from a plurality of devices, therefore, the examiner takes "OFFICIAL NOTICE" regarding such devices. In the event the applicant traverses such notice the examiner would like the applicant to review the cited art of record, in addition to clarifying that sensing via a camera images from the group as claimed was never known/done prior to the applicant's invention in order to expedite prosecution.

In considering claims 5,

Bogardus discloses transmitting the captured image from said camera site to the computer, which may be local or remote. Rott also discloses that data may be transferred and then analyzed (i.e. meeting the claimed prior).

In considering claims 6,

Refer to the rejection of claim 1 above.

In considering claims 10 and 21-22,

Rott discloses the use of a telephone line or PCS satellite link. Silver discloses the use of the internet .

In considering claims 11-14,

Bogardus discloses that the camera and computer may be remotely located or locally, wherein locally Bogardus meets the claimed limitations as shown (Fig 1). Rott also discloses the concept of a local/remote system.

In considering claims 13-14 and 25-26,

Silver discloses the concept of remotely controlling the local devices.

Conclusion

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3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Yenke whose telephone number is (571)272-7359. The examiner work schedule is Monday-Thursday, 0730-1830 hrs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's Supervisor, David L. Ometz, can be reached at (571)272-7593.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

(571)-273-8300

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703)305-HELP.

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/BRIAN P. YENKE/
Primary Examiner, Art Unit 2622

B.P.Y
10 November 2008